

583-1775-06

Proposed Committee Substitute by the Committee on Domestic Security

1 A bill to be entitled

2 An act relating to emergency management;

3 creating s. 526.143, F.S.; requiring motor fuel

4 terminal facilities, wholesalers, new or

5 substantially renovated motor fuel retail

6 outlets, and other motor fuel retail outlets

7 meeting specified criteria for size and

8 location to be capable of operating with

9 alternate generated power; providing

10 requirements for the installation of such

11 equipment; requiring that such businesses

12 maintain documentation of compliance; providing

13 exemptions; creating the Florida Disaster Motor

14 Fuel Supplier Program within the Department of

15 Community Affairs; providing for motor fuel

16 retail outlets to participate in a network of

17 emergency responders; prescribing duties of

18 county emergency management agencies and the

19 Division of Emergency Management; prescribing

20 requirements to participate in the program;

21 providing for security at participating

22 outlets; exempting participating outlets from

23 curfew requirements; providing a state tax

24 credit for equipment and installation costs to

25 motor fuel retail outlets participating in the

26 program; preempting regulation of alternate

27 power sources at motor fuel terminal

28 facilities, wholesalers, and motor fuel retail

29 outlets to the state; requiring the Division of

30 Emergency Management to complete an inventory

31 of generators owned by the state and local

583-1775-06

1 governments; authorizing the division to
 2 maintain a list of private entities offering
 3 generators for sale or lease and make that list
 4 available to the public; requiring that the
 5 Energy Office of the Department of
 6 Environmental Protection review the progress in
 7 postdisaster fuel supply distribution and
 8 provide a report to the Legislature; providing
 9 for severability; providing an effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Section 526.143, Florida Statutes, is
 14 created to read:

15 526.143 Alternate generated power capacity for motor
 16 fuel dispensing facilities.--

17 (1) By December 31, 2006, each motor fuel terminal
 18 facility, as defined in s. 526.303, and each wholesaler, as
 19 defined in s. 526.303, which sells motor fuel in this state
 20 must be capable of operating its distribution loading racks
 21 using an alternate generated power source for a minimum of 72
 22 hours. Pending a postdisaster examination of the equipment by
 23 the operator to determine any extenuating damage that would
 24 render it unsafe to use, the facility must have such alternate
 25 generated power source available for operation no later than
 26 36 hours after a major disaster as defined in s. 252.34.
 27 Installation of appropriate wiring, including a transfer
 28 switch, shall be performed by a certified electrical
 29 contractor. Each business that is subject to this subsection
 30 must keep a copy of the documentation of such installation on
 31 site or at its corporate headquarters. In addition, each

583-1775-06

1 business must keep a written statement attesting to the
2 periodic testing and ensured operational capacity of the
3 equipment. The required documents must be made available, upon
4 request, to the Division of Emergency Management and the
5 director of the county emergency management agency.

6 (2) Each newly constructed or substantially renovated
7 motor fuel retail outlet, as defined in s. 526.303, for which
8 a certificate of occupancy is issued on or after July 1, 2006,
9 shall be prewired with an appropriate transfer switch, and
10 capable of operating all fuel pumps, dispensing equipment,
11 life-safety systems, and payment-acceptance equipment using an
12 alternate generated power source. As used in this subsection,
13 the term "substantially renovated" means a renovation that
14 results in an increase of greater than 50 percent in the
15 assessed value of the motor fuel retail outlet. Local building
16 inspectors shall include this equipment and operations check
17 in the normal inspection process before issuing a certificate
18 of occupancy. Each retail outlet that is subject to this
19 subsection must keep a copy of the certificate of occupancy on
20 site or at its corporate headquarters. In addition, each
21 retail outlet must keep a written statement attesting to the
22 periodic testing of and ensured operational capability of the
23 equipment. The required documents must be made available, upon
24 request, to the Division of Emergency Management and the
25 director of the county emergency management agency.

26 (3)(a) No later than December 31, 2006, each motor
27 fuel retail outlet described in subparagraphs 1., 2., or 3.,
28 which is located within 1/2 mile proximate to an interstate
29 highway or state or federally designated evacuation route must
30 be prewired with an appropriate transfer switch and be capable
31 of operating all fuel pumps, dispensing equipment, life-safety

583-1775-06

1 systems, and payment-acceptance equipment using an alternate
2 generated power source:

3 1. A motor fuel retail outlet located in a county
4 having a population of 300,000 or more which has 16 or more
5 fueling positions.

6 2. A motor fuel retail outlet located in a county
7 having a population of 100,000 or more, but fewer than
8 300,000, which has 12 or more fueling positions.

9 3. A motor fuel retail outlet located in a county
10 having a population of fewer than 100,000 which has eight or
11 more fueling positions.

12 (b) Installation of appropriate wiring and transfer
13 switch shall be performed by a certified electrical
14 contractor. Each retail outlet that is subject to this
15 subsection must keep a copy of the documentation of such
16 installation on site or at its corporate headquarters. In
17 addition, each retail outlet must keep a written statement
18 attesting to the periodic testing of and ensured operational
19 capacity of the equipment. The required documents must be made
20 available, upon request, to the Division of Emergency
21 Management and the director of the county emergency management
22 agency.

23 (4)(a) Subsections (2) and (3) apply to any
24 self-service, full-service, or combination self-service and
25 full-service motor fuel retail outlet regardless of whether
26 the retail outlet is located on the grounds of, or is owned
27 by, another retail business establishment that does not engage
28 in the business of selling motor fuel.

29 (b) Subsections (2) and (3) do not apply to:

30 1. An automobile dealer;

31 2. A person who operates a fleet of motor vehicles; or

583-1775-06

1 3. A person who sells motor fuel exclusively to a
2 fleet of motor vehicles.

3 (5) Each corporation that owns or operates more than
4 10 motor fuel retail outlets within a single county shall
5 maintain at least one portable generator that is capable of
6 providing an alternate generated power source as required
7 under s. 526.143(2) for every 10 retail outlets.

8 Section 2. Florida Disaster Motor Fuel Supplier
9 Program.--

10 (1) The Florida Disaster Motor Fuel Supplier Program
11 is created within the Department of Community Affairs. The
12 Florida Disaster Motor Fuel Supplier Program shall allow any
13 motor fuel retail outlet doing business in the state to
14 participate in a network of emergency responders for the
15 purpose of providing fuel supplies and services to government,
16 medical, critical infrastructure, and other responders, as
17 well as to the general public, during a declared disaster, as
18 described in s. 252.36, Florida Statutes. Participation in the
19 program requires precertification of preparedness to provide
20 emergency services by the Division of Emergency Management or
21 the director of the county emergency management agency.
22 Requirements for precertification shall be established by the
23 Division of Emergency Management or by the director of the
24 county emergency management agency by July 1, 2006.

25 (a) A business that is precertified shall be issued a
26 State Emergency Response Team logo decal for public display to
27 alert responders and the public that the business is capable
28 of assisting in an emergency. In each county having an active
29 program, the county emergency management agency shall be
30 primarily responsible for administering the program within
31 that county. In counties that do not have active programs, the

583-1775-06

1 Division of Emergency Management shall have the authority to
2 precertify businesses as members of the State Emergency
3 Response Team and issue appropriate signage.

4 (b) The Division of Emergency Management may adopt
5 rules to administer this program. The Division of Emergency
6 Management or the emergency management agency of the county
7 may charge a fee to cover the actual costs of precertifying a
8 location, including the cost of performing an inspection,
9 filing the necessary forms, and producing the logo decal for
10 public display. Additional charges may not be imposed for
11 processing the individual documents associated with the
12 program. Funds collected shall be deposited into the Emergency
13 Management Preparedness Trust Fund or, if the emergency
14 management agency of the county is administering the program,
15 into the appropriate county operating account.

16 (2) At a minimum, each business that is precertified
17 as a member of the State Emergency Response Team must have the
18 capability to provide on site fuel-dispensing services to
19 other members of the State Emergency Response Team within 24
20 hours after a major disaster has occurred, or demonstrate the
21 ability to have such service available and agree to make
22 service available as needed. A business may choose to sell
23 fuel through a preexisting contract with local, state, or
24 federal response agencies or may provide point-of-sale service
25 to such agencies. In addition, a business may choose to sell
26 to the general public or may be directed to provide such
27 service by county or state emergency management officials
28 pursuant to ss. 252.35 and 252.38, Florida Statutes. If
29 requested, appropriate law enforcement security personnel may
30 be provided to the participating business for the purpose of
31 maintaining civil order during operating hours.

583-1775-06

1 (3) Persons who are designated as members of the State
2 Emergency Response Team and who can produce appropriate
3 identification, as determined by state or county emergency
4 management officials, shall be given priority for purchasing
5 fuel at businesses designated as members of the State
6 Emergency Response Team. A business may be directed by county
7 or state emergency management officials to remain open during
8 a declared curfew in order to provide service for emergency
9 personnel. Under such direction, the business is not in
10 violation of the curfew and may not be penalized for such
11 operation and the emergency personnel are not in violation of
12 the curfew. A person traveling during a curfew must be able to
13 produce valid official documentation of his or her position
14 with the State Emergency Response Team or the local emergency
15 management agency. Such documentation may include, but need
16 not be limited to, current SERT identification badge, current
17 law enforcement or other response agency identification or
18 shield, current health care employee identification card, or
19 current government services identification card indicating a
20 critical services position.

21 (4) A business that is designated as a member of the
22 State Emergency Response Team may request priority in
23 receiving a resupply of fuel in order to continue service to
24 emergency responders. Such request is not binding, but shall
25 be considered by emergency management officials in determining
26 appropriate response actions.

27 (5) A motor fuel retail outlet that chooses to
28 participate in the Florida Disaster Motor Fuel Supplier
29 Program may receive a state tax credit of up to 25 percent of
30 the value of a purchase of equipment and installation required
31 to meet certification requirements established by the Division

583-1775-06

1 of Emergency Management or by the director of the county
 2 emergency management agency. The total tax credit for a single
 3 certified location may not exceed \$15,000. The Department of
 4 Revenue may issue the credit with prior approval with the
 5 facility's payment of taxes on motor fuel sales or corporate
 6 taxes which shall be predetermined by the department and the
 7 facility owner.

8 Section 3. Regulation of alternate power sources at
 9 motor fuel outlets and other facilities preempted to the
 10 state.--Notwithstanding any other law or local ordinance and
 11 for the purpose of ensuring an appropriate emergency
 12 management response following major disasters in this state,
 13 the regulation, siting, and placement of alternate power
 14 source capabilities and equipment at motor fuel terminal
 15 facilities, wholesalers, and retail sales outlets are
 16 preempted to the state.

17 Section 4. (1) By January 1, 2007, the Division of
 18 Emergency Management shall complete an inventory of generators
 19 owned by the state and local governments which are capable of
 20 operating during a major disaster. The inventory must
 21 identify, at a minimum, the location of each generator, the
 22 number of generators stored at each specific location, to
 23 which agency the generators belong, the primary use of the
 24 generator by the owner agency, and the names, addresses, and
 25 telephone numbers of persons having the authority to loan the
 26 stored generators as authorized by the Division of Emergency
 27 Management during a declared emergency.

28 (2) The division shall maintain an inventory list of
 29 generators owned by the state and local governments. In
 30 addition, the division may keep a list of private entities,
 31 along with appropriate contact information, which offer

583-1775-06

1 generators for sale or lease. The list of private entities
2 shall be available to the public for inspection in written and
3 electronic formats.

4 Section 5. Review of Florida disaster motor fuel
5 supply distribution.--The Energy Office of the Department of
6 Environmental Protection shall review situational progress in
7 postdisaster motor fuel supply distribution and provide a
8 report to the Legislature by March 1, 2007. The report must
9 include information concerning statewide compliance with s.
10 526.143, Florida Statutes, and an identification of all motor
11 fuel retail outlets that are participating in the Florida
12 Disaster Motor Fuel Supplier Program.

13 Section 6. If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 invalidity does not affect other provisions or applications of
16 the act which can be given effect without the invalid
17 provision or application, and to this end the provisions of
18 this act are severable.

19 Section 7. This act shall take effect upon becoming a
20 law.

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